

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

CINCINNATI INSURANCE
COMPANY,

Plaintiff,

Case No. 1:00-cv-965

Spiegel, J.
Black, M.J.

vs.

SHANTRAN LOGISTICS, INC., *et al.*,

Defendants.

**REPORT AND RECOMMENDATION¹ THAT: (1) THE ORDER TO SHOW
CAUSE (Doc. 47) BE FOUND SATISFIED; AND (2) THIS MATTER BE STAYED
PURSUANT TO 11 U.S.C. § 362(a) AND ADMINISTRATIVELY CLOSED**

This is an interpleader action brought against a number of named defendants and multiple “John Does.” The second amended complaint included an indemnity claim against defendants Shantran Logistics, Inc. (“Shantran”), Mr. Mike McDevitt (“McDevitt”), and Mr. Victor Bosnich (“Bosnich”). (*See* doc. 36)

On April 15, 2004, the Court entered an Order adopting in its entirety a Report and Recommendation (doc. 45) by Magistrate Judge David S. Perelman recommending *inter alia* that default judgment should be entered against Shantran and Bosnich and that the indemnity claim against McDevitt should remain pending. (Doc. 46). Judge Perelman noted in his Report that plaintiff’s counsel had advised the Court that he would be

¹ Attached hereto is a NOTICE to the parties regarding objections to this Report and Recommendation.

proceeding against McDevitt by way of a motion for summary judgment “within the next thirty days.” (Doc. 45).

Because more than thirty days had elapsed since the date of Judge Perelman’s Report and no further action had been taken by plaintiff, the Court issued an Order on August 16, 2004, to plaintiff to show cause why the case should not be dismissed for lack of prosecution. (Doc. 47).

In response to the Order to Show Cause, plaintiff has filed a Notice that McDevitt has filed a Chapter 13 bankruptcy case in the United States Bankruptcy Court for the Southern District of Ohio. (Doc. 48).

IT IS THEREFORE RECOMMENDED THAT:

1. The Court find that the Order to Show Cause (doc. 47) is **SATISFIED**; and
2. In light of the suggestion of bankruptcy, this matter be and is **STAYED** pursuant to 11 U.S.C. § 362(a) and, for docket control, be

ADMINISTRATIVELY CLOSED, subject to reopening.

Date: 8/30/04

s/Timothy S. Black
Timothy S. Black
United States Magistrate Judge

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NOTICE

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to this Report and Recommendation within **TEN DAYS** after being served with a copy thereof. That period may be extended by the Court on timely motion by either side for an extension of time. All objections shall specify the portion(s) of the Report and Recommendation objected to and shall be accompanied by a memorandum of law in support of the objections. A party may respond to an opponent's objections within **TEN DAYS** after being served with a copy those objections. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).